

TODAY'S DATE 12/12/2005  
CASE # 9309022HAMILTON COUNTY CLERK OF COURTS  
COMMON PLEAS DIVISION  
Criminal Appearance ReportPAGE 2  
CMSR5155

A P P E A R A N C E D O C K E T  
1/14/1994 STATE'S RESPONSE TO DEFENDANT'S DEMAND  
FOR DISCOVERY  
206 1/14/1994 ENTRY OF CONTINUANCE  
6/6/94  
1/24/1994 OPPOSITION TO DEFENDANT'S MOTION TO  
EMPLOY PSYCHOLOGIST  
98 1/31/1994 ENTRY  
APPOINTING MITIGATION SPECIALIST  
261 2/04/1994 ENTRY OF CONTINUANCE  
2/24/94  
3/28/1994 MOTION  
TO COMPEL DISCLOSURE OF PROSECUTING  
ATTORNEY'S JURY SELECTION DATA,  
3/28/1994 MOTION  
FOR INDIVIDUAL SEQUESTERED VOIR DIRE,  
3/28/1994 MOTION  
FOR A RULING ON NUMBER OF PEREMPTORY  
CHALLENGES,  
3/28/1994 MOTION  
TO HAVE REASONS FOR DEFENSE OBJECTING  
AND REASONS FOR OVERRULING DEFENSE  
OBJECTIONS PLACED ON RECORD,  
3/28/1994 MOTION  
TO COMPEL PROSECUTING ATTORNEY TO  
DISCLOSE DEATH PENALTY DATA  
3/28/1994 MOTION  
TO COMPEL LAW ENFORCEMENT OFFICIALS TO  
TURN OVER ADVISE PROSECUTING ATTORNEY  
OF ALL INFORMATION ACQUIRED DURING  
COURSE OF INVESTIGATION,  
3/28/1994 MOTION  
FOR AN ORDER TO ALLOW DEFENSE TO VIEW  
CRIME SCENE,  
3/28/1994 MOTION  
FOR SEQUESTRATION OF JURORS FOR  
DURATION OF TRIAL,  
3/28/1994 MOTION  
FOR WRITTEN JURY INSTRUCTION AND  
OPPORTUNITY TO REVIEW,  
3/28/1994 MOTION  
IN LIMINE TO EXCLUDE REFERENCES TO  
DEFENDANT'S CRIMINAL RECORD,  
3/28/1994 MOTION  
IN LIMINE TO LIMIT PROSECUTOR'S ARGUMENT  
TO THE AGGRAVATING CIRCUMSTANCE PROVEN  
AT THE GUILT PHASE,  
3/28/1994 MOTION  
FOR COMPREHENSIVE VOIR DIRE,  
3/28/1994 MOTION  
IN LIMINE TO PROHIBIT DISPLAY OF  
EVIDENTIARY EXHIBIT UNITL PROFFERED,  
3/28/1994 MOTION  
TO INSULATE THE VENIRE AND JURY,  
3/28/1994 MOTION  
FOR DISCLOSURE OF WITNESS STATEMENTS  
PRIOR TO TRIAL,  
3/28/1994 MOTION  
TO PROHIBIT DEATH- QUALIFICATION OF  
JURY, IN THE ALTERNATIVE, IF  
NECESSARY TO SEAT A SEPARATE JURY  
DURING PENALTY PHASE OF TRIAL,  
3/28/1994 REQUEST FOR NOTICE OF INTENT TO USE  
EVIDENCE,  
3/28/1994 MOTION  
TO SUBMIT JURY QUESTIONNAIRE,  
3/28/1994 MOTION  
TO REQUIRE THE JURY TO ARTICULATE THE  
METHOD BY WHICH IT WEIGHS THE  
AGGRAVATING AGAINST THE MITIGATING  
CIRCUMSTANCES,

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3/28/1994 MOTION  
TO ALLOW THE DEFENSE TO ARGUE FIRST  
AND LAST AT THE MITIGATION PHASE,  
3/28/1994 MOTION  
TO PROHIBIT REFERENCES TO THE JURY  
THAT A VERDICT AS TO DEATH IS ONLY A  
RECOMMENDATION  
3/28/1994 MOTION  
TO PROPERLY PRESERVE AND CATALOG ALL  
PHYSICAL EVIDENCE,  
3/28/1994 MOTION  
TO INSTRUCT THE JURY TO CONSIDER MERCY  
IN THEIR MITIGATION PHASE DELBERATIONS  
3/28/1994 MOTION  
TO PROHIBIT PROSECUTOR FROM ARGUING,  
AND THE COURT FROM GIVING INSTRUCTIONS  
REGARDING STATUTORY MITIGATING FACTORS  
NOT RAISED BY THE DEFENSE,  
4/06/1994 SUBPOENA FOR WITNESS ISSUED TO  
CLEMY LEE NATALIE LEE ANDRE GIFFIN  
RICARDO LEE CLARENCE CODY LASHAWNDA  
LEE SANCHEZ LEE ROBERT WILLIAMS  
KENNETH TAYLOR ANITA ARTIS  
4/06/1994 SUBPOENA FOR WITNESS ISSUED TO  
PATRICIA FARR DARION LEE JAMIE WRIGHT  
ARLENE BENNETT DWIGHT HILL TIMOTHY  
SCHOPMEYER  
4/06/1994 SUBPOENA FOR WITNESS ISSUED TO  
PREPAID WITNESS KAREN HUDSON  
4/08/1994 ENTRY ORDERING  
RELEASE OF RECORDS  
4/08/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
FCLARENCE CODY,  
4/08/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
CLEMY LEE,  
4/08/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
ANDRE GIFFIN,  
4/08/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
ARLENE BENNETT,  
4/08/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
ANITA ARTIS,  
4/08/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
TOMOTHY SCHOPMEYER,  
4/08/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
PATRICIA EARR,  
4/08/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
DARION LEE,  
4/08/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
ROBERT WILLIAMS,  
4/08/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
KENNETH TAYLOR,  
4/08/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
SANCHEZ LEE,  
4/08/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
LASHAWNDA LEE,  
4/08/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
RICARDO LEE,

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## A P P E A R A N C E D O C K E T

4/08/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
NATALIE LEE,

4/08/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
DWIGHT HILL,

4/11/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
JAMIE WRIGHT,

4/15/1994 MOTION  
TO SUPPRESS EVIDENCE INCLUDING BUT NOT  
LIMITED TO STATEMENTS AND PHYSICAL  
EVIDENCE ON THE GROUNDS THAT IT WAS  
ILLEGALLY OBTAINED

4/15/1994 MOTION  
IN LIMINE TO PROHIBIT ANY EVIDENCE  
BEARING ON THE CHARACTER OF THE VICTIM

4/15/1994 MOTION  
TO EMPLOY EXPERTS AND AUTHORIZE  
PAYMENT OF FEES OF SAME

59 4/19/1994 ENTRY  
AUTHORIZING APPOINTMENT OF EXPERT AND  
PAYMENT OF FEES FOR SAME

61 4/19/1994 ENTRY WITHDRAWING  
JURY DEMAND & REQUESTING THREE-JUDGE  
PANEL

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION  
IN LIMINE TO PROHIBIT ANY EVIDENCE  
BEARING ON THE CHARACTER OF THE VICTIM

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION  
TO ALLOW DEFENSE TO VIEW CRIME SCENE

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION  
FOR WRITTEN JURY INSTRUCTION

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION  
TO PRESERVE AND CATALOG ALL PHYSICAL  
EVIDENCE

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION  
TO COMPEL PROSECUTOR TO DISCLOSE DEATH  
PENALTY DATA

4/25/1994 STATE'S RESPONSE TO DEFENSE MOTION TO  
ALLOW DEFENSE TO ARGUE FIRST AND LAST

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION  
TO REQUIRE THE JURY TO ARTICULATE THE  
METHOD BY WHICH IT WEIGHS THE  
AGGRAVATING CIRCUMSTANCES AGAINST THE  
MITIGATING FACTORS

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION  
TO HAVE REASONS FOR DEFENSE  
OBJECTIONS AND REASONS FOR OVERRULING  
DEFENDANT'S OBJECTIONS PLACED OF RECORD

4/25/1994 STATE'S RESPONSE TO MEMORANDUM FOR  
SEQUESTRATION OF JURORS FOR DURATION  
OF TRIAL

4/25/1994 STATE'S RESPONSE TO MOTION TO COMPEL  
DISCLOSURE OF PROSECUTING ATTORNEY'S  
JURY SELECTION DATA

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION  
TO INSULATE THE VENIRE AND JURY

4/25/1994 STATE'S RESPONSE TO MOTION RULING ON  
NUMBER OF PEREMPTORY CHALLENGES

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION  
TO PROHIBIT DISPLAY OF EVIDENTIARY  
EXHIBITS UNTIL ADMITTED

4/25/1994 STATE'S REPLY TO DEFENDANT'S MOTION TO  
PROHIBIT DEATH QUALIFICATION OF JURY

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION  
TO EXCLUDE REFERENCES TO DEFENDANT'S  
CRIMINAL RECORD AND TO EXCLUDE ANY  
EVIDENCE RELATING TO  
OTHER CRIMES, WRONGS OR ACTS

## A P P E A R A N C E D O C K E T

4/25/1994 STATE'S REPLY IN OPPOSITION TO THE DEFENDANT'S MOTION FOR DISCLOSING WITNESS STATEMENTS PRIOR TO TRIAL

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION TO COMPEL LAW ENFORCEMENT OFFICIALS TO TURN OVER AND ADVISE PROSECUTING ATTORNEY OF ALL INFORMATION ACQUIRED DURING THE COURSE OF INVESTIGATION

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION TO PROHIBIT REFERENCES TO THE JURY THAT A VERDICT AS TO DEATH IS ONLY A RECOMMENDATION

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION TO PROHIBIT THE PROSECUTOR FROM ARGUING AND THE COURT FROM GIVING INSTRUCTIONS REGARDING STATUTORY MITIGATING FACTORS NOT RAISED BY THE DEFENSE

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION TO LIMIT PROSECUTOR'S ARGUMENT TO THE AGGRAVATING CIRCUMSTANCES PROVEN AT THE FIRST PHASE

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION FOR COMPREHENSIVE VOIR DIRE

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION TO SUBMIT QUESTIONNAIRE TO PROSPECTIVE JURORS

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION TO APPOINT NEUROPSYCHOLOGIST

4/25/1994 STATE'S RESPONSE TO DEFENDANT'S MOTION TO INSTRUCT THE JURY TO CONSIDER MERCY IN ITS MITIGATION PHASE DELIBERATIONS

4/29/1994 MOTION  
TO DISMISS AGGRAVATED  
BURGLARY(2911 11,R C )SPECIFICATION 2  
TO COUNT 1 SPECIFICATION 2 TO COUNT 2

5/05/1994 STATE'S RESPONSE TO MOTION TO DISMISS

187 5/06/1994 CERTIFICATION BY TRIAL ATTYS- DEATH  
PENALTY CASE JURY WAIVER

74 5/09/1994 ENTRY OF CONTINUANCE  
8/15/94

9 5/26/1994 ENTRY  
AUTHORIZING APPOINTMENT OF EXPERT AND  
PAYMENT OF FEES FOR SAME

167 5/27/1994 ENTRY OF CONTINUANCE  
6/16/94

170 6/16/1994 ENTRY OVERRULING MOTION TO SUPPRESS

7/20/1994 SUBPOENA FOR WITNESS ISSUED TO  
CLEMY LEE, NATALIE LEE, ANDRE GRIFFIN,  
RICHARDO LEE, CLARENCE CODY, LASHAWNDA  
LEE, SANCHEZ LEE, ROBERT WILLIAMS,  
KENNETH TAYLOR, ANITA ARTIS, PATRICIA  
CARR, DANTOINE POSEY, JAMIE WRIGHT,  
ARLENE BENNETT, DWIGHT HILL, TIMOTHY  
SCHOPMEYER

7/20/1994 SUBPOENA FOR WITNESS ISSUED TO  
PREPAID WITNESS KAREN HUDSON

7/20/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED BY FOREIGN SHERIFF  
CLERMONT COUNTY SERVED KAREN HUDSON

7/21/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
JAMIE WRIGHT

7/21/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
PATRICIA CARR

7/21/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
SANCHEZ LEE

## A P P E A R A N C E D O C K E T

7/21/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
LASHAWADA LEE

7/21/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
CLARENCE CODY

7/21/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
RICHARDO LEE

7/21/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
ANDRE GRIFFIN

7/21/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
CLEMY LEE

7/21/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
ROBERT WILLIAMS

7/22/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
DWIGHT HILL

7/22/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED BY FOREIGN SHERIFF  
CLERMONT COUNTY SERVED KAREN HUDSON

7/25/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
NATALIE LEE

7/25/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
ANITA ARTIS

7/25/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
TIMOTHY SCHOPMEYER

7/25/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
ARLENE BENNETT

7/25/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
KENNETH TAYLOR

7/28/1994 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
DANTOINE POSEY

8/11/1994 STATE'S RESPONSE TO DEFENDANT'S DEMAND  
FOR DISCOVERY

8/11/1994 MOTION  
WITHDRAWING DEFENDANT'S REQUEST FOR  
THREE JUDGE PANEL AND REQUESTING A  
TRIAL BY JURY

157 8/11/1994 ENTRY WITHDRAWING  
REQUEST FOR THREE JUDGE PANEL &  
REQUESTING JURY TRIAL

18 8/16/1994 ENTRY APPOINTING APPELLATE COUNSEL  
ELIZABETH E AGAR

23 8/16/1994 ENTRY GRANTING  
DISMISSAL & STAY TOLLING TIME FOR  
PURPOSES OF APPEAL

8/16/1994 DOCKET STATEMENT FILED  
C940652

8/16/1994 NOTICE OF APPEAL FILED  
NO C940652 COPY SENT TO HAMILTON  
COUNTY PROSECUTOR

64 8/16/1994 APPLIC REQUESTING PERMISSION TO  
BROADCAST, TELEVISE, PHOTO , RECORD  
COURTROOM PROCEEDINGS  
CINTI POST

127 8/16/1994 ENTRY OF CONTINUANCE  
8/16/94

9/14/1994 COURT OF APPEALS OF HAMILTON COUNTY  
CASE NO  
C-940652

A P P E A R A N C E   D O C K E T

10/27/1994 APPLICATION FOR PAYMENT OF MITIGATION  
 SPECIALIST

9      11/02/1994 ENTRY

10      11/02/1994 ENTRY

4/26/1995 JUDGMENT ENTRY & OPINION REVERSING  
 JUDGMENT & REMANDING TO TRIAL COURT  
 (C940652 4/26/95 #2)

430      5/01/1995 ENTRY OF CONTINUANCE  
 8/21/95

23      5/04/1995 ENTRY  
 APPOINTING COUNSEL FOR SUPREME COURT  
 APPEAL

127      7/26/1995 ENTRY OF CONTINUANCE  
 10/23/95

508      8/03/1995 SUPREME COURT OF OHIO ENTRY DENIES  
 LEAVE FOR APPEAL & APPEAL IS DISMISSED

8/24/1995 SUBPOENA FOR WITNESS ISSUED TO  
 NATALIE LEE, ANDRE GRIFFIN RETHA LEE,  
 RICARDO LEE CLEMY LEE, CLARENCE CODY  
 LASHAUNDA LEE, SANCHEZ LEE PATRICIA  
 CARR, PATRICIA CARR ANITA ARTIS,  
 DANTOINE POSEY JAMIE WRIGHT, TIMOTHY  
 SCHOPMEYER

8/24/1995 SUBPOENA FOR WITNESS RETURNED AND  
 ENDORSED  
 NATALIE LEE

8/24/1995 SUBPOENA FOR WITNESS RETURNED AND  
 ENDORSED  
 JAMIE WRIGHT

8/24/1995 SUBPOENA FOR WITNESS RETURNED AND  
 ENDORSED  
 ANDRE GRIFFIN

8/24/1995 SUBPOENA FOR WITNESS RETURNED AND  
 ENDORSED  
 SANCHEZ LEE

8/24/1995 SUBPOENA FOR WITNESS RETURNED AND  
 ENDORSED  
 CLEMY LEE

8/24/1995 SUBPOENA FOR WITNESS RETURNED AND  
 ENDORSED  
 LASHAUNDA LEE

8/24/1995 SUBPOENA FOR WITNESS RETURNED AND  
 ENDORSED  
 CLARENCE CODY

8/24/1995 SUBPOENA FOR WITNESS RETURNED AND  
 ENDORSED  
 RICARDO LEE

8/24/1995 SUBPOENA FOR WITNESS RETURNED AND  
 ENDORSED  
 RETHA LEE

8/24/1995 SUBPOENA FOR WITNESS RETURNED AND  
 ENDORSED  
 PATRICIA CARR

8/24/1995 SUBPOENA FOR WITNESS RETURNED AND  
 ENDORSED  
 ANITA ARTIS

8/24/1995 SUBPOENA FOR WITNESS RETURNED AND  
 ENDORSED  
 DANTOINE POSEY

8/24/1995 SUBPOENA FOR WITNESS RETURNED AND  
 ENDORSED  
 TIMOTHY SCHOPMEYER

9/25/1995 SUBPOENA FOR WITNESS ISSUED TO  
 PATRICIA CARR JAMIE WRIGHT TIMOTHY  
 SCHOPMEYER SANCHEZ LEE LASHAUNDA LEE  
 CLARENCE CODY RICARDO LEE ANDRE GRIFFIN

9/26/1995 SUBPOENA FOR WITNESS RETURNED AND  
 ENDORSED  
 JAMIE WRIGHT

9/26/1995 SUBPOENA FOR WITNESS RETURNED AND  
 ENDORSED  
 SANCHEZ LEE

## A P P E A R A N C E D O C K E T

9/26/1995 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
ANDRE GRIFFIN

9/26/1995 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
CLARENCE CODY

9/26/1995 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
LASHAUNDA LEE

9/26/1995 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
RICARDO LEE

9/26/1995 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
PATRICIA CARR

9/26/1995 SUBPOENA FOR WITNESS RETURNED AND  
ENDORSED  
TIMOTHY SCHOPMEYER

172 10/24/1995 ENTRY REQUESTING OFFICIAL STENOGRAFHER

175 10/24/1995 CAUSE PROGRESSED  
1ST DAY, JURY SELECTION IN PROGRESS  
TESTIMONY ADDUCED IN PART & CONT'  
UNTIL 10/25/95

310 10/25/1995 ORDER  
FOR JURY TO VIEW PREMISES

386 10/25/1995 JURY IMPANELED AND SWORN  
ON VOIR DIRE JURY IMPANELED & SWORN

387 10/25/1995 CAUSE PROGRESSED  
2ND DAY, TESTIMONY ADDUCED IN PART &  
CONT' UNTIL 10/26/95

457 10/26/1995 CAUSE PROGRESSED  
3RD DAY CONTINUED TO 10/27/95

259 10/27/1995 CAUSE PROGRESSED  
4TH DAY, TESTIMONY ADDUCED IN PART &  
CONT' UNTIL 10/30/95

10/30/1995 DEFENDANT'S REQUEST FOR ADDITIONAL  
INSTRUCTION

341 10/30/1995 CAUSE PROGRESSED  
5TH DAY, TESTIMONY ADDUCED IN PART &  
CONT' UNTIL 10/31/95

168 11/01/1995 CAUSE PROGRESSED  
6TH DAY, TESTIMONY ADDUCED IN PART &  
CONT' UNTIL 11/1/95

231 11/01/1995 CAUSE PROGRESSED  
7TH DAY, TESTIMONY ADDUCED IN PART &  
CONT' UNTIL 11/2/95

93 11/02/1995 JURY VERDICT OF  
GUILTY AGG BURLGARY CT 4 WE, THE JURY  
FURTHER FIND THAT THE DEFT DID HAVE ON  
OR ABOUT HIS PERSON, OR UNDER HIS  
CONTROL, A FIREARM WHILE COMMITTING  
THE OFFENSE OF AGG BURGLARY

95 11/02/1995 JURY VERDICT OF NOT GUILTY OF  
AGG MURDER IN CT 3

96 11/02/1995 JURY VERDICT OF  
GUILTY AGG MURDER CT 2 WE, THE JURY  
FIND THE DEFT NOT GUILTY OF AGG  
CIRCUMSTANCES AS SET FORTH IN SPEC NO 1  
TO CT 2 TO WIT A COURSE OF CONDUCT  
INVOLVING THE PURPOSEFUL KILLING OR  
ATTPT TO KILL TWO OR MORE PERSONS WE,  
THE JURY FIND THE DEFT GUILTY OF THE  
AGG CIRCUMSTANCES AS SET FORTH  
11/02/1995 IN SPEC 2 TO CT 2 TO WIT' THAT THE  
DEFT AS THE PRINCIPAL OFFENDER  
COMMITTED THE OFFENSE OF AGG MURDER OF  
CAROL ANN LEE O'NEAL WHILE THE DEFT  
WAS COMMITTING OR ATTEMPTING TO COMMIT  
OR FLEEING IMMEDIATELY AFTER  
COMMITTING OR ATTEMPTING TO COMMIT THE  
OFFENSE OF AGG BURGLARY WE, THE JURY

A P P E A R A N C E D O C K E T

11/02/1995 FURTHER FIND THAT THE DEFT DID HAVE ON OR ABOUT HIS PERSON, OR UNDER HIS CONTROL, A FIREARM WHILE COMMITTING THE OFFENSE OF AGG MURDER IN CT 2

100 11/02/1995 JURY VERDICT OF GUILTY AGG MURDER IN CT 1 WE, THE JURY FURTHER FIND THE DEFT NOT GUILTY OF AGG CIRCUMSTANCES SET FORTH IN SPEC 1 TO CT 1 TO WIT, A COURSE OF CONDUCT INVOLVING THE PURPOSEFUL KILLING OR ATTEMPT TO KILL TWO OR MORE PERSONS BY DEFT WE THE JURY FURTHER FIND DEFT GUILTY OF THE AGG CIRCUMSTANCE

11/02/1995 AS SET FORTH IN CP 2 CT 1 TO WIT THAT THE DEFT AS THE PRINCIPAL OFFENDER COMMITTED THE OFFENSE OF AGG MURDER OF CAROL ANN LEE O'NEAL WHILE THE DEFT WAS COMMITTING OR ATTEMPTING TO COMMIT OR FLEE IMMEDIATELY AFTER COMMITTING OR ATTEMPTING TO COMMIT THE OFFENSE OF AGG BURGLARY WE

11/02/1995 THE JURY FURTHER FIND THAT THE DEFT DID HAVE ON OR ABOUT HIS PERSON, OR UNDER HIS CONTROL, A FIREARM WHILE COMMITTING THE OFFENSE OF AGG MURDER IN CT 1

114 11/02/1995 CAUSE PROGRESSED 8TH DAY, TESTIMONY ADDUCED IN PART & CONT' UNTIL 11/6/95

200 11/02/1995 CASE CONT' IN PROGRESS UNTIL 11/6/95

201 11/02/1995 JUDGMENT OF ACQUITTAL OF VERDICT \*\*\* CT 3 & SPEC TO CT 3 & SPEC 1 TO EACH CTS 1 & 2 ONLY \*\*\*

136 11/06/1995 CAUSE PROGRESSED 9TH DAY, TESTIMONY ADDUCED IN PART & CONT' UNTIL 11/8/95

131 11/08/1995 JURY VERDICT OF CT 1 WAS FOUND GUILTY OF COMMITTING IS SUFFICIENT TO OUTWEIGH THE MITIGATING FACTORS PRESENT IN THIS CASE, & WE THEREFORE RECOMMEND THAT THE SENTENCE OF DEATH TO BE IMPOSED

132 11/08/1995 JURY VERDICT OF WAS FOUND GUILTY OF COMMITTING IS SUFFICIENT TO OUTWEIGH THE MITIGATING FACTORS PRESENT IN THIS CASE, & WE THEREFORE RECOMMEND THAT THE SENTENCE OF DEATH BE IMPOSED

158 11/08/1995 CAUSE CONCLUDED SENTENCE DEFERRED UNTIL 12/11/95 REMANDED

255 11/21/1995 ENTRY APPOINTMENT OF EXPERT AND PAYMENT OF FEES FOR SAME

258 11/21/1995 ENTRY AUTHORIZING APPOINTMENT OF EXPERT & PAYMENT OF FEES FOR SAME

14 11/28/1995 ENTRY AUTHORIZING APPOINTMENT OF EXPERT OF PAYMENT OF FEES FOR SAME

233 11/29/1995 AMENDED ENTRY AUTHORIZING APPOINTMENT OF EXPERT AND PAYMENT OF FEES FOR SAME

13 12/11/1995 JUDGMENT ENTRY SENTENCE INCARCERATION  
CT 1 AGG MURDER SENT DEATH CT 2 AGG MURDER SENT DEATH CT 4 AGG BURGLARY 10 TO 25 YRS (10 YRS ACTUAL) 3 YRS ACTUAL ON FIREARM SPEC IN CTS 1, 2, & 4 CONCURR W/EACH OTHER BUT CONSEC TO & PRIOR TO UNDERLY SENT IN CTS 1, 2, & 4 CTS 1 & 2 CONCURR CT 4 CONSEC CTS 1 & 2 CREDIT 730 DYS PAY COSTS

## A P P E A R A N C E D O C K E T

17 12/11/1995 ENTRY APPOINTING APPELLATE COUNSEL  
 DALE SCHMIDT & ELIZABETH AGAR  
 73 12/11/1995 ENTRY GRANTING  
 DEFT'S MOTIONS  
 75 12/11/1995 APPLIC REQUESTING PERMISSION TO  
 BROADCAST, TELEVISE, PHOTO , RECORD  
 COURTROOM PROCEEDINGS  
 WLWT-TV  
 97 12/11/1995 ENTRY OVERRULING  
 DEFT'S MOTIONS  
 12/14/1995 MOTION  
 FOR NEW TRIAL  
 64 12/18/1995 ENTRY DENYING  
 DEFT'S MOTION FOR NEW TRIAL  
 16 12/22/1995 OPINION  
 4/12/1996 MEMORANDUM IN SUPPORT OF MOTION FOR  
 NEW TRIAL  
 4/22/1996 CLERK'S TRANSCRIPT FEE FOR AN INDIGENT  
 DEFENDANT - FILED  
 4/22/1996 CLERK'S TRANSCRIPT FEE FOR AN INDIGENT  
 DEFENDANT - FILED  
 4/26/1996 CRIMINAL STATE COSTS SATISFIED  
 11 5/10/1996 ENTRY  
 RESETTING EXECUTION DATE FROM 5/30/96  
 TO 11/5/96  
 43 5/10/1996 ENTRY OVERRULING  
 MOTION FOR NEW TRIAL  
 5/22/1996 DOCKET STATEMENT FILED  
 C960392  
 5/22/1996 NOTICE OF APPEAL FILED  
 NO C960392 COPY SENT TO HAMILTON  
 COUNTY PROSECUTOR  
 101 6/10/1996 ENTRY  
 ALLOWING ADDITIONAL COMPENSATION  
 294 6/15/1996 ENTRY APPROVING COUNSEL FEES  
 \$12500  
 28 7/01/1996 ENTRY  
 ALLOWING ADDITIONAL COMPENSATION  
 42 7/20/1996 ENTRY APPROVING COUNSEL FEES  
 \$17000  
 8/19/1996 COURT OF APPEALS OF HAMILTON COUNTY  
 CASE NO  
 C-960392  
 9/30/1996 CLERK'S TRANSCRIPT FEE FOR AN INDIGENT  
 DEFENDANT - FILED  
 9/30/1996 CLERK'S TRANSCRIPT FEE FOR AN INDIGENT  
 DEFENDANT - FILED  
 10/29/1996 COMPLETE TRANSCRIPT OF PROCEEDINGS  
 VOLUMES I THRU V #C960392  
 10/30/1996 COMPLETE TRANSCRIPT OF PROCEEDINGS  
 (PRETRIAL MOTIONS) (2 VOLS) C960392  
 11/01/1996 CLERK'S TRANSCRIPT FEE FOR AN INDIGENT  
 DEFENDANT - FILED  
 11/01/1996 CLERK'S TRANSCRIPT FEE FOR AN INDIGENT  
 DEFENDANT - FILED  
 1/03/1997 MOTION TO SUPPRESS C960392  
 5/13/1997 COMPLETE TRANSCRIPT OF PROCEEDINGS  
 #C960392  
 6/10/1997 CLERK'S TRANSCRIPT FEE FOR AN INDIGENT  
 DEFENDANT - FILED  
 7/02/1997 PETITION FOR POST-CONVICTION RELIEF  
 UNCR R C 2953 21  
 7/07/1997 MOTION  
 FOR EXTENSION OF TIME TO FILE  
 RESPONSIVE PLEADING  
 173 7/07/1997 ENTRY  
 EXTENDING TIME UNTIL 9/25/97 TO FILE  
 RESPONSE TO POST- CONVICTION  
 9/03/1997 AMENDMENT TO PETITION FOR  
 POSTCONVICTION RELIEF UNCR R C  
 2953 21

## A P P E A R A N C E D O C K E T

9/16/1997 MOTION TO DISMISS  
PETITION TO VACATE  
12/12/1997 JUDGMENT ENTRY AFFIRMING JUDGMENT OF  
TRIAL COURT 12-03-97 #3 (C960392)  
109 12/19/1997 ENTRY APPOINTING COUNSEL  
FOR SUPREME COURT APPEAL  
ELIABETH E AGAR & ROXANN DIEFFENBACH  
1/08/1998 DEATH PENALTY CASE  
NOTICE OF APPEARANCE OF POSTCONVICTION  
COUNSEL  
51 1/16/1998 ENTRY APPOINTING COUNSEL  
FOR SUPREME COURT APPEAL  
ELIZABETH AGAR COUNSEL & ROXANN  
DIEFFENBACH CO-COUNSEL  
1/26/1998 COPY OF NOTICE OF APPEAL TO THE  
SUPREME COURT OF OHIO FILED ON 1/21/98  
S C # 98-0147  
213 2/17/1998 FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND DISMISSING PETITION TO VACATE  
3/18/1998 NOTICE OF APPEAL FILED  
NO C980247 COPY SENT TO HAMILTON  
COUNTY PROSECUTOR  
3/18/1998 DOCKET STATEMENT FILED  
C980247  
4/20/1998 COURT OF APPEALS OF HAMILTON COUNTY  
CASE NO  
C-980247  
8/27/1998 COPY OF NOTICE OF APPEAL OF APPELLANT  
JAMES DERRICK O'NEAL FILED IN THE  
SUPREME COURT OF OHIO ON 8/21/98  
SC #98-1735  
3/26/1999 JUDGMENT ENTRY & DECISION  
AFFIRMING JUDGMENT OF TRIAL  
COURT (C980247 3/26/99 #114)  
5/14/1999 COPY OF NOTICE OF APPEAL OF APPELLANT  
JAMES DERRICK O'NEAL, FILED IN THE  
SUPREME COURT OF OHIO ON 5/10/99  
SC#99-906  
2/18/2000 COPY OF RECONSIDERATION ENTRY DENYING  
MOTION, FILED IN THE SUPREME COURT OF  
OHIO ON 2/16/00 SC#98-147  
2/18/2000 COPY OF JUDGMENT ENTRY, FILED IN THE  
SUPREME COURT OF OHIO ON 1/5/00  
SC#98-147  
2/18/2000 COPY OF MANDATE, FILED IN THE SUPREME  
COURT OF OHIO ON 2/18/00 SC#98-147  
2/22/2000 COPY OF ENTRY GRANTING STAY OF  
EXECUTION, FILED IN THE SUPREME COURT  
OF OHIO ON 2/17/00 SC#98-147  
3/24/2000 COPY OF ENTRY DISMISSING APPEAL, FILED  
IN THE SUPREME COURT OF OHIO ON 3/8/00  
SC#99-906  
3/24/2000 COPY OF JUDGMENT ENTRY AFFIRMING  
JUDGMENT OF THE COURT OF APPEALS,  
FILED IN THE SUPREME COURT OF OHIO ON  
3/8/00 SC#98-1735  
3/24/2000 COPY OF MANDATE TO THE COURT OF APPEAL  
OF HAMILTON COUNTY, OHIO TO CARRY  
JUDGMENT TO EXECUTION, FILED IN THE  
SUPREME COURT OF OHIO ON 3/8/00  
SC#98-1735  
5/15/2000 RECEIPT OF RECORD OPX  
1 CASE FILE  
5/15/2000 RECEIPT OF RECORD OPX  
1 BOX AND 1 POSTER  
5/15/2000 RECEIPT OF EXHIBITS  
3 MANILLA ENVELOPES  
RECEIVED BY JERRY COSTA  
11/15/2002 FIRST SUCCESSIVE PETITION TO VACATE OR  
SET ASIDE JUDGMENT AND/OR SENTENCE  
PURSUANT TO OHIO REVISED CODE SECTIONS  
2953.21 AND 2953.23

TODAY'S DATE 12/12/2005

CASE B 9309022

COMMON PLEAS DIVISION

Criminal Appearance Report

PAGE 12

CMRSR5155

## A P P E A R A N C E D O C K E T

11/25/2002 MOTION  
TO EXTEND TIME TO FILE A RESPONSE TO  
DEFENDANT'S SUCCESSIVE PETITION TO  
VACATE

242 11/26/2002 ENTRY GRANTING  
ADDITIONAL TIME TO FILE RESPONSE UNTIL  
12/30/02

212 12/10/2002 ENTRY GRANTING  
ADDITIONAL TIME TO FILE RESPONSE UNTIL  
DECEMBER 30, 2002

12/30/2002 MOTION  
TO EXTEND TIME TO FILE A RESPONSE TO  
DEFENDANT'S SUCCESSIVE PETITION TO  
VACATE

165 1/07/2003 ENTRY GRANTING  
ADDITIONAL TIME TO FILE RESPONSE UNTIL  
2/3/03

2/03/2003 MOTION  
TO EXTEND TIME TO FILE A RESPONSE TO  
DEFENDANT'S SUCCESSIVE PETITION TO  
VACATE

247 2/04/2003 ENTRY GRANTING  
ADDITIONAL TIME TO FILE RESPONSE UNTIL  
2/17/03

3/03/2003 MOTION  
TO EXTEND TIME TO FILE A RESPONSE TO  
DEFENDANT'S SUCCESSIVE PETITION TO  
VACATE

346 3/04/2003 ENTRY GRANTING  
ADDITIONAL TIME TO FILE RESPONSE UNTIL  
MARCH 21, 2003

4/24/2003 MOTION  
TO EXTEND TIME TO FILE A RESPONSE TO  
DEFENDANT'S SUCCESSIVE PETITION TO  
VACATE

243 5/08/2003 ENTRY GRANTING  
ADDITIONAL TIME TO FILE RESPONSE UNTIL  
5/21/03

6/03/2003 MEMORANDUM IN OPPOSITION TO FIRST  
SUCCESSIVE PETITION TO VACATE JUDGMENT  
OR SENTENCE

6/03/2003 MOTION  
TO ACCEPT RESPONSE OF PLAINTIFF  
INSTANTER

6/10/2003 DEFENDANT-PETITIONER'S REPLY  
MEMORANDUM IN RESPONSE TO THE  
PLAINTIFF'S MEMORANDUM IN OPPOSITION

281 4/07/2004 ENTRY OVERRULING  
MOTION FOR FUNDING MENTAL RETARDATION  
EXPERT AND DISCOVERY

282 4/07/2004 FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND ENTRY DISMISSING SUCCESSIVE  
PETITION FILED PURSUANT TO ATKINS V  
VIRGINIA

4/08/2004 NOTICE OF APPEALABLE JUDGMENT SENT BY  
ORDINARY MAIL TO ALL PARTIES ENTITLED  
TO A COPY

5/07/2004 PRAECIPE OF DEFENDANT -APPELLANT  
JAMES DERRICK O'NEAL

5/07/2004 NOTICE OF APPEAL FILED  
NO C040286 COPY SENT TO HAMILTON  
COUNTY PROSECUTOR

6/22/2004 COURT OF APPEALS OF HAMILTON COUNTY  
CASE NO  
C040286

8/13/2004 ENTRY DISMISSING APPEAL BY AGREEMENT  
AND WITHOUT PREJUDICE AND REMANDING  
CASE TO TRIAL COURT FOR EVIDENTIARY  
HEARING  
C-040286  
IMAGE# 57  
08/13/2004

*253*

## A P P E A R A N C E D O C K E T

\*\*\*COPY SENT TO DOC AND DEFENDANT ON

08/24/04, RSR\*\*\*

116 254 10/14/2004 ENTRY OF CONTINUANCE  
1/19/05

2 255 10/15/2004 ENTRY ORDERING  
RETURN OF DEFT FOR COURT PROCEEDINGS

468 256 10/15/2004 ENTRY  
APPOINTING COURT CLINIC FORENSIC  
SERVICES FOR EXAMINATION

257 1/27/2005 REPORT OF EXAMINER PURSUANT TO LAW  
REPORT LOCATED IN CLERK OF COURTS  
OFFICE RM 315

2 258 4/06/2005 ENTRY ORDERING  
RETURN OF INMATE FOR HEARING

259 5/17/2005 NOTICE OF CHANGE OF ADDRESS OF COUNSEL  
FOR DEFENDANT

260 5/31/2005 CLERK'S TRANSCRIPT FEE FOR AN INDIGENT  
DEFENDANT - FILED

261 6/07/2005 PETITIONER JAMES O'NEAL'S POST-HEARING  
BRIEF

262 6/14/2005 POST-ATKINS HEARING BRIEF

12 263 9/26/2005 DECISION DENYING DEFT'S MOTION TO  
VACATE OR SET ASIDE HIS DEATH SENTENCE

9/26/2005 NOTICE OF APPEALABLE JUDGMENT SENT BY  
ORDINARY MAIL TO ALL PARTIES ENTITLED  
TO A COPY

11 264 10/12/2005 ENTRY ORDERING  
RETURN OF INMATE TO INSTITUTION

265 10/24/2005 NOTICE OF APPEAL FILED  
NO C050840 COPY SENT TO HAMILTON  
COUNTY PROSECUTOR

266 10/25/2005 AFFIDAVIT OF INDIGENCY

267 10/25/2005 PRAECIPE OF DEFENDANT- APPELLANT  
JAMES DERRICK O'NEAL

268 12/02/2005 COMPLETE TRANSCRIPT OF PROCEEDINGS  
C-050840  
1 VOL



IN THE COURT OF APPEALS OF OHIO  
FIRST APPELLATE DISTRICT  
HAMILTON COUNTY

STATE OF OHIO,

Respondent-Appellee,

APPEAL NO C-050840

v

TRIAL NO B-939022

JAMES DERRICK O'NEAL,

Petitioner-Appellant

MOTION OF APPELLANT FOR  
EXTENSION OF TIME TO FILE BRIEF

Petitioner-Appellant James O'Neal moves the Court pursuant to Rule 14(B) of the Ohio Rules of Appellate Procedure for an order granting him an extension of time to and including February 15, 2006 in which to file his brief. The reasons for this motion are contained in the following memorandum in support

Respectfully submitted,

JOHN J. GIDEON (0008151)  
(Trial Attorney)  
250 East Stanton Avenue  
Columbus, Ohio 43214-1268  
(614) 888-9866

**FILED**  
**COURT OF APPEALS**

JAN 25 2006

and

GREGORY HARTMANN  
CLERK OF COURTS  
HAMILTON COUNTY

MICHAEL W. KRAMHOLTZ (0009099)  
(Co-Counsel)  
Bieser, Greer & Landis, LLP  
6 North Main Street, Suite 400

FILED

2006 JAN 25 P 2 25  
GREGORY HARTMANN  
CLERK OF COURTS  
HAMILTON COUNTY

Dayton, Ohio 45402-1908  
(937) 223-3277

COUNSEL FOR DEFENDANT-  
APPELLANT

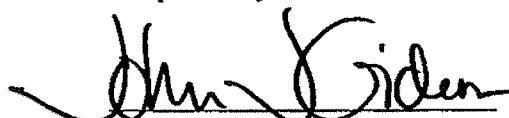
MEMORANDUM IN SUPPORT

This is an appeal from the trial court's denial, following an evidentiary hearing, of Appellant Derrick O'Neal's petition for postconviction relief under R.C. 2953.21 *et seq.* asking the trial court to vacate or set aside his sentence of death based on Atkins v. Virginia (2002), 536 U.S. 304, 122 S.Ct. 2242, and on State v. Lott (2002), 97 Ohio St. 3d 303, 2002-Ohio-6625, 779 N.E.2d 1011

On November 3, 2005 the Court issued an accelerated calendar scheduling order Appellant O'Neal's brief is presently due on January 25, 2006

Appellant is filing contemporaneously with this motion for an extension of time a motion for a page limit extension from 15 pages to 35 pages. Appellant requests this extension of time pending the Court's decision on the motion for a page limit extension as well as to prepare Appellant's brief of the amount of pages that this Court determines

Respectfully submitted,



JOHN J. GIDEON (0008151)  
(Trial Attorney)  
250 East Stanton Avenue  
Columbus, Ohio 43214-1268  
(614) 888-9866

and

Michael W. Krumholtz by John Gideon

MICHAEL W KRUMHOLTZ (0009099)

(Co-Counsel)

Bieser, Greer & Landis, LLP

6 North Main Street, Suite 400

Dayton, Ohio 45402-1908

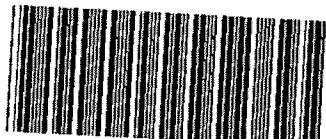
(937) 223-3277

COUNSEL FOR DEFENDANT-  
APPELLANT

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion Of Appellant For An Extension Of Time To File Brief was served on Joe Deters, Hamilton County Prosecuting Attorney, and Philip R Cummings, Assistant Prosecuting Attorney, 230 East Ninth Street, Suite 4000, Cincinnati, Ohio 45202-2174, by regular United States Mail, postage prepaid, on this 24th day of January, 2006

  
JOHN J. GIDEON (0008151)  
Counsel for Appellant



IN THE COURT OF APPEALS OF OHIO  
FIRST APPELLATE DISTRICT  
HAMILTON COUNTY

STATE OF OHIO,

Respondent-Appellee,

APPEAL NO C-050840

v

TRIAL NO B-939022

JAMES DERRICK O'NEAL,

Petitioner-Appellant

MOTION OF APPELLANT FOR  
A PAGE LIMIT EXTENSION

Petitioner-Appellant James O'Neal moves the Court for an order granting extending the page limitation in this matter from 15 pages to 35 pages. The reasons for this motion are contained in the following memorandum in support

FILED

2006 JAN 25 P 2 2b

GREGORY HARTMANN  
CLERK OF COURTS  
HAMILTON COUNTY OH

Respectfully submitted,

  
JOHN J. GIDEON (0008151)  
(Trial Attorney)  
250 East Stanton Avenue  
Columbus, Ohio 43214-1268  
(614) 888-9866

and

FILED  
COURT OF APPEALS

JAN 25 2006   
MICHAEL W. KRUMHOLTZ (0009099)

GREGORY HARTMANN (Co-Counsel)  
CLERK OF COURTS  
HAMILTON COUNTY  
Bieser, Greer & Landis, LLP  
6 North Main Street, Suite 400  
Dayton, Ohio 45402-1908

(937) 223-3277

COUNSEL FOR DEFENDANT-  
APPELLANT

MEMORANDUM IN SUPPORT

This is an appeal from the trial court's denial, following an evidentiary hearing, of Appellant Derrick O'Neal's petition for postconviction relief under R.C. 2953.21 *et seq.* asking the trial court to vacate or set aside his sentence of death based on Atkins v. Virginia (2002), 536 U.S. 304, 122 S.Ct. 2242, and on State v. Lott (2002), 97 Ohio St.3d 303, 2002-Ohio-6625, 779 N.E.2d 1011.

On November 3, 2005 the Court issued an accelerated calendar scheduling order. Appellant O'Neal's brief is presently due on January 25, 2006.

Under Local App. R. 12(4) briefs filed in cases on the accelerated calendar may not exceed fifteen (15) pages. Appellant is having extreme difficulty preparing a brief that adequately addresses the issues in 15 pages and requests a page limit extension to 35 pages.

This case is a death penalty case. The decision of the trial court denying Appellant's motion to vacate his death sentence based on his mental retardation is 11 pages long. The decision followed an evidentiary hearing. Appellant filed a post-hearing brief of 24 pages. The case involves complex factual and legal issues. The issues presented are significant and cannot adequately be addressed in a 15 page brief.

Appellant believes that Appellee should be granted an equal number of pages to respond.

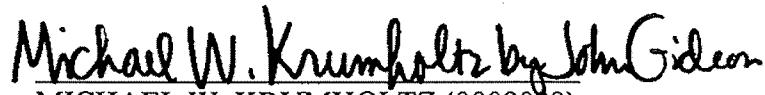
For these reasons Appellant respectfully requests that the page limitation on the briefs in this case be extended to 35 pages.

Respectfully submitted,



JOHN J GIDEON (0008151)  
(Trial Attorney)  
250 East Stanton Avenue  
Columbus, Ohio 43214-1268  
(614) 888-9866

and



MICHAEL W KRUMHOLTZ (0009099)  
(Co-Counsel)  
Bieser, Greer & Landis, LLP  
6 North Main Street, Suite 400  
Dayton, Ohio 45402-1908  
(937) 223-3277

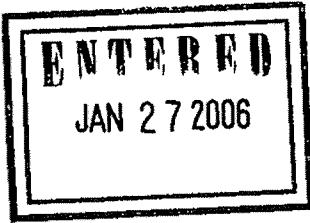
COUNSEL FOR DEFENDANT-  
APPELLANT

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion Of Appellant For Page Limit Extension was served on Joe Deters, Hamilton County Prosecuting Attorney, and Philip R Cummings, Assistant Prosecuting Attorney, 230 East Ninth Street, Suite 4000, Cincinnati, Ohio 45202-2174, by regular United States Mail, postage prepaid, on this 24th day of January, 2006



JOHN J GIDEON (0008151)  
Counsel for Appellant



IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO

STATE OF OHIO

APPEAL NO. C-050840

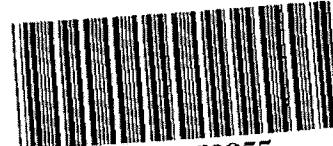
Appellee,

vs

ENTRY EXTENDING TIME TO  
FILE APPELLANT'S BRIEF UNTIL

JAMES DERRICK O'NEAL

Appellant



D66959855

This cause came on to be considered upon the motion of the appellant filed herein to extend time to file his brief

The Court upon consideration thereof finds that the motion is well taken and is granted

Wherefore, it is the Order of this Court that the appellant shall have until  
February 15, 2006 to file appellant's brief

To The Clerk:

Enter upon the Journal of the Court on JAN 27 2006 per order of the Court.

By: Lee H. Adelsberg  
Presiding Judge MC

CASE NO JUDGE PLAINTIFF DEFENDANT SENT NOTICE TO

C 0500840 902 STATE OF OHIO JAMES DERRICK ONEAL JOHN JOSEPH GIDEON  
250 EAST STANTON AVE  
COLUMBUS OH 43214-1268

C 0500840 902 STATE OF OHIO JAMES DERRICK ONEAL HAMILTON COUNTY PROSECUTOR  
230 E NINTH ST, ROOM 7000  
CINCINNATI OH 45202

**F I L E D**  
**COURT OF APPEALS**

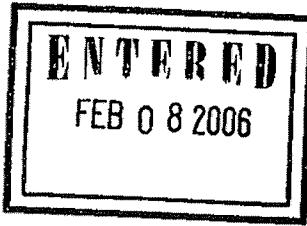
JAN 30 2006

GRE<sup>DR. J.</sup> HARTMANN  
CLERK OF COURTS  
HAMILTON COUNTY

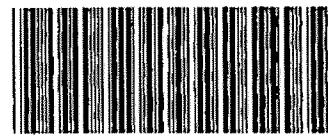


O'Neal Apx. Vol. XI  
Page 95

**D66975895**



IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO



D67127005

STATE OF OHIO

APPEAL NO. C-050840

Appellee,

vs

ENTRY GRANTING MOTION TO  
ENLARGE PAGE LIMITATION FOR  
APPELLANT'S BRIEF AND  
EXTENDING TIME FOR BRIEFS

JAMES DERRICK O'NEAL

Appellant

This cause came on to be considered upon the motion of the appellant filed herein  
extending the page limitation for briefs

The Court, upon consideration thereof, finds that the motion is well taken and is  
hereby granted

The Court hereby enlarges the page limitation to 35 pages for both the appellant's  
brief and the appellee's brief

The Court *sua sponte* extends the time for filing briefs as follows.

(1) the appellant's brief shall be filed on or before March 8, 2006, and

(2) the appellee's brief shall be filed on or before April 7, 2006

To The Clerk:

Enter upon the Journal of the Court on FEB - 8 2006 per order of the Court.

By:

A handwritten signature in black ink.

Presiding Judge

(Copies sent to all counsel)

CASE NO JUDGE PLAINTIFF DEFENDANT SENT NOTICE TO

C 0500840 902 STATE OF OHIO JAMES DERRICK ONEAL JOHN JOSEPH GIDEON  
250 EAST STANTON AVE  
COLUMBUS OH 43214-1268

C 0500840 902 STATE OF OHIO JAMES DERRICK ONEAL HAMILTON COUNTY PROSECUTOR  
230 E NINTH ST, ROOM 7000  
CINCINNATI OH 45202

**FILED  
COURT OF APPEALS**

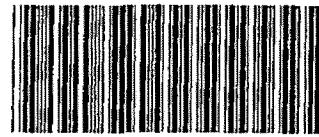
**FEB 10 2006**

**GREGORY HARTMANN  
CLERK OF COURTS  
HAMILTON COUNTY**



O'Neal Apx. Vol. XI  
Page 97

**D67142587**



IN THE COURT OF APPEALS OF OHIO  
FIRST APPELLATE DISTRICT  
HAMILTON COUNTY

STATE OF OHIO,

Respondent-Appellee,

APPEAL NO. C-050840

v.

TRIAL NO. B-939022

JAMES DERRICK O'NEAL,

Petitioner-Appellant.

MOTION OF APPELLANT FOR  
EXTENSION OF TIME TO FILE BRIEF

Petitioner-Appellant James O'Neal moves the Court pursuant to Rule 14(B) of the Ohio Rules of Appellate Procedure for an order granting him an extension of time to and including March 22, 2006 in which to file his brief. The reasons for this motion are contained in the following memorandum in support.

Respectfully submitted,

*per telephone authorization of 3/13/06*  
JOHN J. GIDEON (0008151)  
(Trial Attorney)  
250 East Stanton Avenue  
Columbus, Ohio 43214-1268  
(614) 844-3954

and

*Michael W. Krumholtz*

MICHAEL W. KRUMHOLTZ (0009099)  
(Co-Counsel)  
Bieser, Greer & Landis, LLP  
6 North Main Street, Suite 400  
Dayton, Ohio 45402-1908  
(937) 223-3277  
COUNSEL FOR DEFENDANT-  
APPELLANT

FILED

2006 MAR 15 AM 10:31

GREGORY HARTMANN  
CLERK OF COURTS  
HAMILTON COUNTY

MEMORANDUM IN SUPPORT

This is an appeal from the trial court's denial, following an evidentiary hearing, of Appellant Derrick O'Neal's petition for postconviction relief under R.C. 2953.21 *et seq.* asking the trial court to vacate or set aside his sentence of death based on Atkins v. Virginia (2002), 536 U.S. 304, 122 S.Ct. 2242, and on State v. Lott (2002), 97 Ohio St.3d 303, 2002-Ohio-6625, 779 N.E.2d 1011.

On November 3, 2005 the Court issued an accelerated calendar scheduling order. Pursuant to that schedule Appellant O'Neal's brief was due on January 25, 2006.

On that date Appellant O'Neal filed a motion asking the Court to extend the page limitation to 35 pages. Appellant simultaneously filed a motion requesting an extension of time for the filing of his brief pending the Court's decision on Appellant's motion to extend the page limitation.

On January 27, 2006 the Court granted Appellant's motion for an extension of time to file his brief until February 15, 2006.

Then, by entry filed on February 8, 2006, the Court granted Appellant's motion to extend the page limitation and granted Appellant until March 8, 2006 to file his brief.

The undersigned trial attorney, with the assistance of co-counsel, is preparing Appellant's brief. Unfortunately, the undersigned trial attorney developed a severe sinus infection, with congestion, sore throat, and fever, on March 5, 2006. This personal illness continued, and worsened, throughout the ensuing week. This illness prevented counsel from filing Appellant's brief on March 8. Although trial counsel has not yet fully recovered from his illness, he has sufficiently recovered to make this request for an additional extension of time to and including March 22, 2006 in which to file Appellants' brief.

Respectfully submitted,

*John J. Gideon, attorney*

JOHN J. GIDEON (0008151)  
(Trial Attorney)  
250 East Stanton Avenue  
Columbus, Ohio 43214-1268  
(614) 888-9866

and

*Michael W. Krumholz*

MICHAEL W. KRUMHOLTZ (0009099)  
(Co-Counsel)  
Bieser, Greer & Landis, LLP  
6 North Main Street, Suite 400  
Dayton, Ohio 45402-1908  
(937) 223-3277

COUNSEL FOR DEFENDANT-  
APPELLANT

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion Of Appellant For An Extension Of Time To File Brief was served on Joe Deters, Hamilton County Prosecuting Attorney, and Philip R. Cummings, Assistant Prosecuting Attorney, 230 East Ninth Street, Suite 4000, Cincinnati, Ohio 45202-2174, by regular United States Mail, postage prepaid, on this 13<sup>th</sup> day of March, 2006.

*John J. Gideon*

*fa*

JOHN J. GIDEON (0008151)  
Counsel for Appellant

.motionforextensionoftimetofilebrief-Mar06.ca